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C O N F I D E N T I A L QUITO 000645

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E.O. 12958: DECL: TEN YEARS  
TAGS: [PGOV](#) [PREL](#) [EC](#)  
SUBJECT: CONGRESS CRISIS FESTERS

REF: A. QUITO 554

[1](#)B. QUITO 556

Classified By: PolOff Jarahn Hillsman for reasons 1.4 (b&d).

[1](#)1. (C) Summary: The confrontation between Congress and the Supreme Electoral Tribunal continues, and could come to a head again on March 20, when President of Congress Jorge Cevallos attempts to call the Congress back into session following its disruption on March 12. The center-right opposition group insists the 57 dismissed Congress members should be permitted to attend; if they are barred, they will attempt to install themselves as a rival Congress, probably in Guayaquil. Some of the alternate Congress members are reportedly ready to attend the session to be sworn in. With just thirty-one of the original Congress members loyal to the government, it may not be possible for Cevallos to attract a quorum of 51.

[1](#)2. (C) Meanwhile, the legal morass surrounding this crisis only deepens, forcing any resolution into the political realm, currently with few takers. On March 16, a Manabi provincial judge denied an injunction for the dismissed deputies, but another request to the Constitutional Court is pending and could affect the status of political forces. We have encouraged opposition members to unilaterally revoke Congress' earlier resolution illegally substituting the President of the TSE, to recoup lost credibility and regain the legal high ground. Some, including the Gutierrez bloc, appear ready to consider that move. Government Minister Larrea has voiced support for dialogue, but not entered into it with the opposition, only with the replacement deputies. President Correa remains intransigent, enjoying the spectacle of a stymied opposition and suffering so far only minor political cost. Should a rival Congress be birthed, it is unlikely to enjoy much credibility with the public, who continue to favor Correa and his national constituent assembly proposal with overwhelming, if somewhat diminished, support. End Summary.

MinGov Breaks Silence; Explains Secret Meeting  
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[1](#)3. (SBU) Minister of Government Gustavo Larrea in a March 16 television interview said that the government was looking for an "institutional and democratic" exit from the current political crisis. Larrea defended the clandestine meeting between one of his staff and an estimated 40 of the 57 replacement deputies uncovered by the press on March 13 near Quito. Larrea claimed the meeting was solely to discuss the alternates' security, at their request; he rejected rumors of

government incentives and payoffs in exchange for their cooperation. Larrea echoed Correa's call for peaceful demonstrations and lamented recent acts of violence against congressional members.

#### Another Battle at Congress' Doors?

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¶4. (SBU) Congress is scheduled to convene on March 20, twelve days after the Supreme Electoral Tribunal (TSE) voted to remove 57 congressmen from office for interfering in the electoral process associated with the April 15 referendum on whether to approve a national constituent assembly to rewrite the constitution. The government supports the TSE decision and insists it will not allow the dismissed congress members into Congress--they will be replaced by their alternates, elected in October 2006 and representing the same parties as those dismissed. Of the 44 congress members not dismissed, 31 are from parties supporting the government's position on the assembly. The remaining thirteen (from the opposition PRIAN, PSP, PSC and UDC) are not expected to appear, in solidarity with their dismissed colleagues. The government's challenge is to convince a least 21 of the 57 alternates to show up, to provide Congress with a quorum. The opposition argues that no quorum is legally valid without the 57 dismissed deputies, since only a sitting Congress with a quorum can swear in any replacements.

¶5. (C) Lucio and Gilmar Gutierrez told the DCM and PolChief on March 19 that they would try to convince Congress President Cevallos to join the dismissed deputies in Guayaquil to open a session of Congress on March 20. If Cevallos did not agree, the session would be convoked by the Congress VP (a member of Gutierrez' PSP, and one of the destituted deputies). The rebel Congress would consider moving to impeach Correa for failing to protect the deputies attacked in Quito and Manabi.

¶6. (C) Comptroller General Carlos Polit, who remains an informal advisor to the Gutierrez brothers and also attended our meeting, argued that impeachment against Correa was premature and doomed to fail. The Guayaquil Congress should instead seek to impeach either Government Minister Larrea -- legally responsible for the security forces and their actions, or better, they should target Economy Minister Patino for issuing contradictory information on the payment of Ecuador's bonds, possibly in collusion with Venezuelan actors. (Note: impeachment of ministers by Congress does not automatically remove the minister; impeachment of the president requires a two-thirds majority of Congress and follows a lengthy procedure.) Polit advocated the rebel Congress then appeal to the OAS, UN or Andean Parliament for moral support.

¶7. (C) DCM and PolChief asked whether the opposition was willing to revoke Congress' earlier illegal attempt to replace TSE president Acosta. Gutierrez said he had publicly offered to do so, although he is clearly still bothered by what he regards as a personal betrayal. The Correa government, despite MinGov Larrea's claims, had no interest in such a compromise, he insisted. DCM emphasized the value of having the Congress regain the legal high ground; if Correa then declines to follow suit, the political equation changes and public opinion might start gradually tilting against him. It is also important that the opposition offer a positive change agenda, not just a series of anti-Correa blocking tactics. The Gutierrez brothers have no illusions about prospects for this deeply discredited Congress to regain broad public support, but recognized the need to take steps to change the political dynamics to their favor. But they believe that Correa holds the best cards and seemed somewhat doubtful that they could be successful.

#### Legal Claims and Counter-Claims

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¶8. (SBU) The dismissed deputies have pursued several

attempts to restore their political rights, stripped for one year by the TSE. Most have been unsuccessful to date. The Constitutional Court refused to consider a petition from President of Congress Cevallos on (date) (RefTel). On March 16, Judge Wilson Mendoza of the 14th District Civil Court in the coastal province of Manabi upheld the TSE's March 7 ruling and denied an injunction request against the TSE ruling that was filed by dismissed PSP Deputy Luis Fernandez. Fernandez attempted to appeal Mendoza's decision to the Constitutional Court, but Mendoza declared his court closed for a two-week holiday. The TSE and President hailed Mendoza's ruling and called for Congress to return to work on March 20 with the alternates.

¶9. (SBU) Mendoza subsequently claimed he had been pressured into considering the injunction request by Fernandez, who was representing PSP party leaders Lucio and Gilmar Gutierrez. Gutierrez denied ever meeting with Mendoza to DCM on March 19. The opposition claimed that Mendoza received pressure from the government and TSE to uphold the TSE's March 7 ruling. PSC Deputy Alfredo Serrano alleged that the government had mobilized violent protesters in Manabi to disrupt the legal process. PRIAN Deputies Sylka Sanchez and Gloria Gallardo, whose vehicle was attacked by pro-government supporters in Manabi on March 15, echoed Serrano's allegations, and charged the government with seeking to become a "dictatorship."

¶10. (SBU) The Constitutional Court is expected to rule on March 20 whether it will judge a complaint filed by dismissed PSC congressman Pascual del Cioppo, charging the TSE with itself violating electoral law by dismissing the 57. The opposition claims that since the Court is considering the issue, their rights should be considered restored in the meantime. The Court is handling another request for a ruling on the constitutionality of the Assembly statute, from congress members led by now-dismissed UDC deputy Carlos Larreategui, normally, and will not rule until well after April 15.

¶11. (SBU) The TSE, for its part, is reportedly considering changing some of the 57, in response to 26 petitions by those dismissed arguing they did not participate in any of the moves to illegally remove or impeach President of the Supreme Court, Jorge Acosta, or to appeal the constitutionality of the assembly. Judicial Commission Head Hernan Rivadeneira on March 16 announced that the electoral body would review the request by thirteen of the 57 removed to be reinstated. Rivadeneira reportedly signaled that the organization would likely only allow seven of the thirteen to return.

Comment  
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¶12. (C) The disintegration of Congress may take another turn for the worse on March 20, if neither the government nor opposition try to avert it. Though Correa's popularity has reportedly taken a small hit from the current feuding, falling five points to 69% in one credible poll, his radical political change agenda as embodied in the amorphous assembly proposal continues to generate overwhelming public support. In this situation, the opposition, should it form a rival Congress, risks becoming irrelevant and reviled. We have encouraged the opposition to focus on a more positive agenda, and seek to correct its past errors to regain higher moral ground. We will continue to promote dialogue with the government as well.

JEWELL